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I

Citations to Opinions Below

a. The opinion of the Supreme Court of the State of Michigan of which review is sought, printed in Appendix B hereto, *infra,* p. 2a, is officially reported sub nom *Panhandle Eastern Pipe Line Co. v. Michigan Corporation and Securities Commission,* in 346 Mich. [Advance Sheets of June 28, 1956] 50.

b. The opinion of the trial court, affirmed by the court below, is unreported and is printed in the record, p. 55.

c. The administrative decision of the Michigan Corporation Tax Appeal Board, reversed by the trial court, is unreported and is printed in the record, p. 40.[1]

II

Jurisdiction

The final judgement of the Supreme Court of the State of Michigan was pronounced on the 4th day of June, 1956. The jurisdiction of this Court is invoked under Title 28 U.S.C. § 1257 (3).

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[1] We file with this petition under provisions of paragraph 4 of Rule 21, 9 copies of the record as printed for the use of the court below.

III

Questions Presented

On the Merits:

Did the court below err in holding that the formula provided in § 5 of the Michigan statute here in question, [2] used by the Michigan Corporation and Securities Commission and the Michigan Corporation Tax Appeal Board, petitioners herein, in computing and determining the annual corporation franchise privilege fee or tax to be paid by Panhandle Eastern Pipe Line Company, respondent herein, for the year 1952, laid an unconstitutional burden on interstate commerce conducted by Panhandle in Michigan and other States, in violation of the Commerce Clause of the Constitution of the United States, Article I, § 8 (3)?

By this Petition:

Has the Supreme Court of Michigan decided a federal question of substance and importance not heretofore determined by this Court or in a way probably not in accord with applicable decisions of this Court?

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[2]

Pub. Acts Michigan 1921, No. 85, § 5, as amended by Pub. Acts of Michigan 1952, No. 183 [Mich. Stat. Ann. 1953 Cum. Supp. § 21.208]. Sections 4 and 5e of the statute are also involved and they are with § 5 printed as Appendix "C" hereto, infra, p. 8a.

IV

Statute Involved

1. The statutory provisions involved will be found in Pub. Acts Mich. 1921, No. 85, §§ 4 and 5, as amended by Act No. 183, Pub. Acts Mich. 1952, and § 5e thereof, added by Act No. 183 aforesaid [Mich. Stat. Ann. 1953 Cum. Supp. §§ 21.205, 21.208, and 21.208 (5)]. They are printed in Appendix "C" hereto, *infra*, p. 8a.

a. Section 4, *supra*, requires each foreign and domestic corporation to pay at the time of filing its annual report with the Michigan Corporation & Securities Commission, [3] an annual fee of 4 mills upon each dollar of its paid-up capital and surplus, it being the express legislative intent that such a tax be imposed upon every corporation, foreign or domestic, "having the privilege of exercising corporate franchises within this state, irrespective of whether any such corporation chooses to exercise such privilege during any taxable period." [4] The measure of such tax is determined by formulae prescribed in § 5 of the act, supplemented, in administrative discretion, by additional formulae prescribed by § 5e, added to the act in 1952 by Pub. Act No. 183.

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[3]

These annual reports are filed pursuant to Pub. Acts 1931, No. 327, §§ 81 and 82 [Comp. Laws Mich. 1948, §§ 450.81 and 450.82].

[4]

Such tax is construed as a fee for the privilege of doing and being able to do business within the state, imposed upon intangibles of the corporation, not as a property tax, but as an excise tax in which property is merely used as a yardstick or basis of computation. Holland Ditch Co. v. State of Michigan, 318 Mich. 474; Udylite Corp. v. Corp. & Sec. Comm., 319 Mich. 1; Chicago, Duluth etc. Transit Co. v. Corp. & Sec. Comm., 319 Mich. 14.

b. Section 5 prescribes in substance that the annual franchise fee imposed in § 4, *supra*, shall be determined and measured by the corporation's paid-up capital and surplus obtained by applying the average of 3 percentages or factors, separately computed: (1) the average value of the taxpayer's real and tangible personal property within the state during the tax period, divided by the average value of all the taxpayer's real and personal property wherever situated during such period; (2) the total wages, salaries and other personal service compensation during such period, of officers and employees within the state divided by the total wages, salaries and other personal service compensation during such period of all the taxpayer's officers and employees within and without the state; and (3) the receipts of the taxpayer arising during such period from 5 specified sources, including *inter alia*: (a) total receipts from intrastate sales; (b) 50% of receipts derived from sales in Michigan of goods transported into the state; and (c) 50% of receipts from sales made out of the state of property shipped into Michigan. [5]

c. Section 5e, invoked by Panhandle, permits the commission, in its discretion to make adjustments of allocation factors to reflect activity, business, receipts and capital attributable to the State.

2. Validity of such provisions was tested in the courts below by the Commerce Clause of the Constitution of the United States, Art. I, § 8 (3) which vests in the Congress power

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[5]
It is these provisions of § 5 which Panhandle challenged on constitutional grounds and which the Michigan Supreme Court, as well as the trial court struck down because, as applied, they were deemed to conflict with the Commerce Clause of the Federal Constitution.

"to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

V

Concise Statement of the Case

The Panhandle Eastern Pipe Line Company, respondent, is a Delaware corporation admitted to do business in Michigan as a foreign corporation. The Michigan Corporation & Securities Commission and the Michigan Corporation Tax Appeal Board, petitioners herein, constitute the administrative agency and quasi-judicial board, respectively, charged with proper determination of corporate franchise privilege fees to be paid the State of Michigan pursuant to the statute involved, *supra* (Appendix "C" hereto).

Administrative Procedure:

In a letter dated August 28, 1952, addressed to the Commission (R. 11-12), Panhandle enclosed its annual report for that year (R. 10-11), together with its check for $17,561.89 to cover the privilege fee in accordance with the computation shown on such report, based on 5 factors later rejected by the Commission because not in strict compliance with § 5 of the act in question.[6]

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[6] Such factors were as follows:—(1) Average value of real property and tangible personal property in Michigan as compared to total; (2) personal service compensation paid for services rendered in Michigan; (3) receipts from sales of tangible personal property from Michigan inventories delivered in Michigan and 50% of such receipts from out-state inventories with Michigan deliveries as compared to total receipts everywhere; (4) gas purchased in Michigan as compared to total gas purchases; and (5) operating expenses in Michigan to total operating expenses.

There followed in due course, an extended correspondence between Panhandle and the Commission (R. 8-19) in which the former claimed (R. 14-15, 18, 19-26) it was legally entitled to compute its annual privilege fee in accordance with the method adopted by the legislature when adding § 5e to the statute in 1952, while on the other hand the Commission insisted (R. 8-10, 12-13, 16-17) that the taxpayer adhere strictly to the formula of § 5 of the act. As thus computed by the Commission the amount due was $24,539.59 while Panhandle's computation reached the sum of $17,561.89. The Commission finally ordered (R. 8-10) Panhandle to remit the balance of $6,977.70.

Panhandle appealed to the Michigan Corporation Tax Appeal Board (R. 1-8), attaching to its petition as exhibits, letters comprising the correspondence referred to above. A hearing before the appeal board was held on the 28th day of January, 1954 when testimony was taken (R. 28-34) and an affidavit (R. 35-39) of Panhandle's controller and assistant secretary was received in evidence as an exhibit (R. 34).

This same officer testified (R. 31-34) that Panhandle's gas pipe line originates in the Texas Panhandle field and terminates in Michigan, at Detroit, after crossing the Ohio-Michigan state line about south of Adrian, Michigan (R. 31). As this pipe line comes through the various states, sales are made therein as well as in Michigan. The gas is measured (R. 32) through a station in case Panhandle owns the lateral; in other cases it delivers right off the line to the customer. In Michigan it is measured at the so-called Detroit gate and also at Adrian.

He further testified (R. 32) that gas taken from the line near Adrian and other points in Michigan, and gas severed from the main line at Detroit, except one sale at the Canadian border, never goes outside of Michigan when it is once

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1956

No. 354

MICHIGAN CORPORATION AND SECURITIES COMMISSION AND MICHIGAN CORPORATION TAX APPEAL BOARD,

Petitioners,

v.

PANHANDLE EASTERN PIPE LINE COMPANY, a Delaware corporation,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MICHIGAN

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BYRON, BOYD & GUNNISON, INC., BOOK MANUFACTURERS, LANSING, MICH. 1956

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IN THE SUPREME COURT OF THE UNITED STATES

October Term 1956

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Petitioners,

v.

PANHANDLE EASTERN PIPE LINE COMPANY, a Delaware corporation,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MICHIGAN

To the Honorable the Chief Justice of the
United States and Associate Justices of
the Supreme Court of the United States:

Petitioners pray that a writ of certiorari issue to review the final judgment of the Supreme Court of the State of Michigan entered in the above entitled cause on the 4th day of June, 1956, printed in Appendix A hereto, *infra*, p. 1a.

severed and measured. There is a severance point at the Detroit gate and down near Adrian where the gas going into Michigan is cut off. Gas from Adrian and the Detroit gate, those two outlets or volumes stay right in Michigan. It is gas that Panhandle brought into Michigan and when the company delivers to Michigan, it is measured and going to stay in Michigan. Other lines go into Canada, but no gas is stored (R. 33) in Michigan by Panhandle.

Panhandle sells gas to Michigan gas companies and to Michigan Consolidated and to southeastern Michigan (R. 33), but its sales to Consumers are intrastate sales, at Howell, of gas produced in the state. Gas sold to Michigan Consolidated is delivered at the city gate measuring station.

Further, the witness claimed (R. 33) Panhandle does not store gas at all and therefore its sales to Michigan Consolidated and other companies are all interstate except the sales from the Howell (Michigan) station to Consumers Power.[7] That fact has been accepted by the Federal Power Commission which regulates Panhandle's rates, based on the cost of delivering the gas. The percentage of sales of gas made by the company in Michigan, as to total sales, is 40%; its sales to Consolidated alone, is 15% (R. 34).

Finally, this witness testified (R. 34), Panhandle owns the lateral coming off south of Adrian at the main line, viz., all the lateral extending west of the main line. He could not locate the cut-off point where the main pipe line connects onto the lateral.

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[7]

This was the first time in the administrative proceedings that Panhandle invoked the Commerce Clause of the Constitution of the United States. The claim was maintained, however, throughout subsequent litigation in Michigan's courts.

Further details said to support Panhandle's theory that its sales of natural gas in Michigan, with the exception of such product sold wholly within that state, appear in the affidavit aforesaid (R. 35-39) and need not be repeated here.

The Court's attention, however, is respectfully invited to Panhandle's system map inserted in the back of the record printed for use of the Michigan Supreme Court, from which it may be noted that while Panhandle's pipe lines originate in Texas and terminate in Michigan, many lateral lines run wholly intrastate, severed from the main pipe lines coming up from Texas; that one lateral cut-off from the main pipe line goes directly to Adrian (R. 32), and that another lateral cut-off goes northeast with cut-offs therefrom to Blissfield, Tecumseh, Clinton, Kalamazoo, Battle Creek, Marshall, Albion, Jackson, Howell and Clawson, with a line extending up and connecting with the Consumer's Power Company line that empties into the Consumer's Power storage facilities at Winterfield Township, Clare county, Michigan.

The tax appeal board, for reasons set forth in its opinion (R. 40-45) of Feb. 19, 1954, held (R. 45) that computation of the 1952 corporation privilege fee by the commission was correct and that there was due to the State of Michigan by Panhandle the amount of $6,977.70.

Trial Court Proceedings:

Thereafter, Panhandle paid such amount under protest and on the 9th day of March, 1954, pursuant to statute,[8]

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[8] Pub. Acts Michigan 1952, No. 197, as amended [Mich. Stat. Ann. and 1953 Cum. Supp., and 1955 Cum. Supp. § 3.560 21.1 et seq.]

filed its petition (R. 46) in the circuit court for the county of Ingham, praying review and reversal of the administrative determinations, findings and opinions aforesaid.

In paragraph 5 of its petition (R. 48-49), subdivision 4, (a), (b), (c) and (d), Panhandle distinctly raised the federal question here presented by alleging in substance and effect that the determination of petitioners herein was in violation of its rights under the Commerce Clause of the Constitution of the United States, Article I, § 8, for the following express reasons:

> "(a) Said determination imposes a direct burden on interstate commerce.
>
> (b) Said determination imposes an unreasonable burden on interstate commerce.
>
> (c) Said determination imposes a direct tax on the privilege of carrying on interstate commerce.
>
> (d) Said determination is based on Section 5 of Act 85 of the Public Acts of 1921 as amended, and said Section 5 in defining the scheme or formula to be used in determining what portion of the paid in capital and surplus of a corporation engaged in interstate commerce is to be used as the basis for its annual privilege fee, fails to make provision for a legal and constitutional method of allocating the portion of the receipts of such corporation from interstate commerce which is to be used for such annual privilege fee."

On the 13th day of September, 1955 the trial court handed down its opinion (R. 55) and on the 14th day of October, 1955 entered an order (R. 59) remanding the matter to the administrative agency with a mandate to recompute the

privilege tax pursuant to § 5e of the statute in question, and to exclude from such computation "any and all receipts of petitioner (Panhandle) derived from the interstate sale in the state of Michigan of natural gas transported by it in interstate commerce through its pipe lines from points outside of the state of Michigan" (R. 60).

Michigan Supreme Court Proceedings:

The administrative agencies (petitioners here) took a timely appeal (R. 61-62) to the Michigan Supreme Court, saving for review and stressing the federal question presently involved, and the cause was submitted on the 5th day of April, 1956.

On the 4th day of June, 1956 the court below affirmed the order of the trial court when it handed down its opinion (Appendix "B" hereto) officially published in 346 Mich. 50, in which it was pointed out, *inter alia*, that "the principal question here for decision is whether the action of the commission and the appeal board violated plaintiff's privilege of carrying on interstate commerce," *idem.*, p. 55. In the opinion of the court it was "clear that the formula used by the commission includes receipts from a business not related to . . . [Panhandle's] intrastate business, and under the authority of the *Gartland Case*, *supra*,[9] it is arbitrary and imposes an unjust burden upon interstate commerce." Finally, the court held that the petitioners herein erred in determining that section 5 of the statute here involved, was applicable in determining the annual privilege fee of Panhandle for the year 1952, rather than and without adjustment pursuant to section 5e of said act, *idem.*, pp. 56-57. This petition for certiorari follows.

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[9]
Gartland Steamship Co. v. Corporation & Securities Commission, 339 Mich. 661.

VI

Reasons for granting the Writ

It is our position: (1) that both in the trial court and in the highest court of the State there was drawn in question the validity of § 5 of the statute involved, on the ground that as applied to Panhandle it was repugnant to the Commerce Clause, and that each state court so held [28 U.S.C. § 1257 (3)]; thus the Michigan Supreme Court has decided a federal question of substance within Rule 19 (a); (2) that the precise question presented has not been determined by this Court and, if any of its decisions bear thereon, the court below has decided it in a way probably not in accord therewith; and (3) that quite apart from the direct interests of the respective parties, and despite the small amount of money involved, it is of vital importance to other litigants and parties, to the taxpayers of the State of Michigan and those of other States, as well as to Michigan's system of taxation as a whole, that the question presented be decided finally by this Court.[10]

1. Unlike the situation in *Black v. Cutter Laboratories*, 351 U.S. 292, this Court is requested to review a final judgment rather than a mere statement found in the opinion of the court below, 346 Mich. 50.

a. Although not pressed before the administrative agencies (petitioners here), Panhandle did invoke the Commerce Clause and did draw in question the validity of § 5 of the statute, as tested by such Clause, in its petition for review filed in the Michigan trial court of original jurisdiction, and

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[10]
We are laying aside much that might be said of the merits to the case in order to stress the importance of a review by this Court.

it raised this distinctly federal question in precise and unmistakable terms.[11]

b. The trial court expressed the opinion (R. 58) in no uncertain or ambiguous language, that in using the formula of § 5 of the statute, the State agencies placed a tax on interstate business done by Panhandle, and that they could not so increase the amount of the privilege tax involved. The judgment of the trial court (R. 60) followed the opinion by ordering your petitioners to exclude from their computation of the tax "any and all receipts" of Panhandle "derived from the interstate sale in the state of Michigan of natural gas transported by it in interstate commerce through its pipe lines from points outside of the State of Michigan." Thus, the effect of the trial court's judgment was to hold that § 5, as applied, violated the Commerce Clause. And § 5 thereby became as legally dead as though more expressly pronounced invalid under the Federal Constitution.

c. The opinion and final judgment of the State's highest court, 346 Mich. 50, was just as explicit in considering and deciding the federal question involving the validity of § 5 of the statute. Each of the 5 headnotes of the opinion as officially reported,[12] states a legal and constitutional principle based on the Commerce Clause, and the court itself, *idem.*, p. 55, posed the principal question for decision to be "whether the action of the commission and the appeal board violated plaintiff's (Panhandle's) privilege of carry-

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[11]

Nothing could be more explicit than the language employed by counsel for Panhandle in subdivision 4 of paragraph 5 of such petition (R. 48-49)

[12]

Such headnotes are prepared by the court's reporter under supervision of the writer of the opinion.

ing on interstate commerce." And it answered the question by declaring that use of the formula set up in § 5 of the statute and used in this case, "imposes an unjust burden upon interstate commerce." The result, we respectfully submit, was to invalidate § 5 perforce the Commerce Clause. If this be true, it follows that the Supreme Court of Michigan has decided a federal question of substance.

2. So far as the merits of our contention are concerned, it is petitioners' position that the State is not prohibited by the Commerce Clause from including receipts or property derived from or used in interstate commerce in the factors used to measure a corporate privilege fee of a foreign corporation doing an intrastate business within the state. In other words, in applying the receipts allocation factor of § 5, the State is validly measuring, in conjunction with the property and compensation factors, the reasonable value of the privilege granted Panhandle, permission to do and doing intrastate business within the State. Multistate business should, in our view, be required to pay their just portion of state tax burdens, and at the same time not be subjected to multiple burdens of taxation, as compared to intrastate businesses.[13]

The issue is debatable and, as we read them, recent decisions upon which Panhandle will rely, fall somewhat short of laying the precise question at complete rest:

> *Spector Motor Service, Inc. v. O'Connor,* 340 U.S. 602, struck down a state tax imposed upon the franchise of a foreign corporation for the privilege of doing business within the State of Connecticut when

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[13]

To demonstrate this proposition would require an adequate and comprehensive brief, reviewing the decisions of this Court, wholly inappropriate, however, for present purposes.

the business consisted *solely* of interstate commerce, but the Court recognized the principle, here asserted;[14]

Norton Co. v. Department of Revenue, 340 U.S. 534, sustained in principle and in part the Retailers Occupation Tax Act of Illinois;

Michigan-Wisconsin Pipe Line Co. v. Calvert, 347 U.S. 157, held invalid under the Commerce Clause, a Texas tax on the occupation of "gathering gas," measured by the entire volume of gas "taken," as applied to an interstate natural gas pipeline company, but there the so-called privilege of "gathering gas" was not a separable one; the "taking" into appellants' pipeline was solely for interstate transmission and the gas at that time was actually moving in interstate commerce; and

Railway Express Agency, Inc. v. Virginia, 347 U.S. 359, declared invalid a gross-receipts privilege tax as applied to a foreign corporation doing an *exclusive* interstate business.

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[14]

The Court stated, 340 U.S. 609, that its conclusion was "not in conflict with the principle that where a taxpayer is engaged both in intrastate and interstate commerce, a state may tax the privilege of carrying on intrastate business and, within reasonable limits, may compute the amount of the charge by applying the tax rate to a fair proportion of the taxpayer's business done within the state, including both interstate and intrastate."

Also, we respectfully submit, the court below decided the case probably not in accord with the following decisions of this Court:[15]

Baltic Mining Co. v. Massachusetts, 231 U.S. 68;

Underwood Typewriter Co. v. Chamberlain, 254 U.S. 113;

Hump Hairpin Co. v. Emmerson, 258 U.S. 290;

International Shoe Co. v. Shartel, 279 U.S. 429;

Western Cartridge Co. v. Emmerson, 281 U.S. 511;

East Ohio Gas Co. v. Tax Comm. of Ohio, 283 U.S. 465;

Matson Navigation Co. v. State Board, 297 U.S. 441;

Western Live Stock v. Bureau, 303 U.S. 250;

Ford Motor Co. v. Beauchamp, 308 U.S. 331;

Dept. of Treasury, Ind. v. Wood Preserving Corp., 313 U.S. 62;

Butler Bros. v. McColgan, 315 U.S. 501;

International Harvester Co. v. Evatt, 329 U.S. 416.

Moreover, the opinion of the Michigan Supreme Court conflicts with principles announced in a decision of this Court involving a Michigan statute as applied to the regulation of Panhandle's sale and distribution of gas to local consumers in Michigan, deemed by this Court to be essen-

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[15]

While we make no extravagant claims for these cases, and although it cannot be said with positive certainty that singly or in the aggregate they absolutely control, they do, we think, sustain our position in principle.

tially local in aspect, although involving interstate transportation.

Panhandle Eastern Pipe Line Co. v. Michigan Public Service Commission, 341 U.S. 329.

3. Obviously, of course, Michigan would not in ordinary circumstances seek certiorari to review a final judgment of her own Supreme Court merely for the purpose of retaining the comparatively trivial sum of tax avails tied up in this particular suit. The petitioners do pray such relief, however, because of the constitutional principles involved and the impact of the decision at bar upon the State's tax structure, and for other important reasons.

a. Michigan in the depression years abolished general property taxation and substituted therefor a general retail sales tax act,[16] which, however, proved insufficient to meet the rising cost of State government. It was for this reason, among others, that the legislature retained and expanded the statute here in question, including the formula set up in § 5 of that act. And it was also for this reason that Michigan enacted similar measures, including a business activities tax.[17]

An examination of records of the Michigan Department of Revenue (which includes petitioners) has been made at our request to determine the amount of corporate franchise fees which under the decision of the court below would

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[16]

Michigan Stat. Ann., 1950 Revised, and 1955 Cum. Supp. § 7.521 et seq., Use Tax, § 7.555(1) et seq.

[17]

Act 150, Public Acts, 1953, as amended by Act 17, Public Acts 1954, and Act 282, Public Acts 1955; Mich. Sta.. Ann., Sec. 7.557(1), 7.557(24) 1955 Cum. Supp., Secs. 205.551-205.574 Comp. Laws. 1948.

be refundable for the privilege years 1953 to 1956, and we are informed by competent and reliable authority that such examination discloses an aggregate $25 million loss by excluding "interstate receipts" from the sales factor of the § 5 formula.

b. If, as we are informed and believe, the doctrine evolved by the Michigan Supreme Court in affirming the order of the trial court,[18] is equally applicable to Michigan's business activities tax (note 17), the State may be required to repay to taxpayers an amount representing the tax paid by them, measured in part by a statutory percentage of receipts other than from sales from Michigan inventories to Michigan destinations. Such amount so refundable is estimated by competent experts of Michigan's Department of Revenue at $30 million.[19]

It might be reasonably stated, we think, that the decision of the court below is of the utmost importance to the fiscal and tax problems of the State. First, Michigan faces a potential refund obligation reasonably estimated at $50 million, plus anticipated loss of current revenues in an amount approximating $20 million annually.[20] Second, such revenue loss must be shifted to those businesses having substantial payrolls and properties in Michigan, or to the general taxpayer through legislation.

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[18]

The order of the trial court (R. 60) would compel the Commission to exclude from computation of the privilege fee, all receipts derived from interstate sales in Michigan.

[19]

The future economic loss to the State from this source of revenue is inestimable; one reliable estimate places this loss at 45-50% of current business activities tax collections.

[20]

These figures are supplied by the Michigan Department of Revenue.

c. If, as we claim, the court below has erroneously interpreted and applied decisions of this Court, it follows that the taxing power of the State of Michigan, as compared to the taxing power of other States, is unconstitutionally restricted.

Numerous States of the Union have adopted what is known as the Massachusetts formula, or the formula set up in § 5 of the Michigan statute, or some other method closely akin thereto, and the decision below in this cause might tend to weaken such tax structures, if it is allowed to go unchallenged in this Court.

Appendix "D" hereto, *infra*, p. 14a, is a schedule of statutes of other States having corporate franchises based primarily on capital stock value, which employ apportionment formulas to allocate the capital stock value of corporations doing business in other states in addition to the taxing state. This appendix provides a brief description of the allocation factors used by the several States, the manner in which these factors are combined, and the tax base to which the allocation fraction is applied.

Thus it clearly appears, or so it seems to us, that it is vitally important to the State of Michigan, as well as to the country at large, that this Court issue its writ of certiorari in order that the decision of the Michigan Supreme Court may be reviewed and that the questions presented set at rest.

This Court, it should be noted, has on occasion reviewed and reversed final judgments of State courts, which, in

similar circumstances, invalidated state taxing laws as being repugnant to the Commerce Clause when in fact they were not repugnant.[21]

VII

Conclusion

Therefore petitioners respectfully request that a writ of certiorari issue to the Supreme Court of Michigan.

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[21]

McGoldrick v. Berwind-White Coal Mining Co., 309 U.S. 33; McGoldrick v. Compagnie General Transatlantique, 309 U.S. 430; Nelson v. Sears, Roebuck & Co., 312 U.S. 359; and Richfield Oil Corp. v. State Board of Equalization, 329 U.S. 69, 75.